

Bauer, Jaime (DEQ)

From: Meade, Veronica [vmeade@hampton.gov]
Sent: Tuesday, March 31, 2015 11:22 AM
To: Bauer, Jaime (DEQ)
Cc: Davenport, Melanie (DEQ); Paylor, David (DEQ)
Subject: FW: Hampton's Comments to Draft MS4 Permit
Attachments: FINAL Hampton Comments on VA0088633 MS4 Permit.pdf; 2015-03-25_Ltr. HRPDC to J. Bauer.pdf

Dear Ms. Bauer:

Attached please find the City of Hampton's comments to the draft MS4 permit and HRPDC's letter of attachment. We look forward to meeting with you on April 13 to negotiate these items. Please do not hesitate to contact us before then if you have any questions or concerns.

Best regards,

Veronica E. Meade
Senior Assistant City Attorney
City Attorney's Office
22 Lincoln Street
Hampton, VA 23669
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March 31, 2015

VIA ELECTRONIC MAIL

Ms. Jaime L. Bauer
Environmental Specialist II
MS4 – Team Leader
Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218

RE: City of Hampton Comments on DRAFT Authorization to Discharge under the Virginia Stormwater Management Program and the Virginia Stormwater Management Act

Dear Ms. Bauer:

Thank you for the extension from February 27, 2015 to March 31, 2015, to allow additional time for owner comment on the draft Authorization to Discharge under the Virginia Stormwater Management Program and the Virginia Stormwater Management Act (Phase I MS4 Permit).

The City of Hampton (the “City” or “Hampton”) prefaces its comments with information that is specific to its demographics. Based on the most current data per the United States Census Bureau, Hampton has the second smallest population (136,699), the third lowest median income (\$50,705), and the third highest vulnerable population (17.1%) of the eleven (11) Phase 1 municipal separate storm sewer system (MS4) communities in Virginia.¹ Vulnerable populations are households receiving public assistance, elderly households, and include a percentage of households in poverty or just above the poverty threshold.

Financial Capability

The stormwater utility competes with other City utilities and services, such as wastewater and solid waste. Per the Environmental Protection Agency (EPA)

¹ See U.S. Census Bureau: State and County QuickFacts at <https://quickfacts.census.gov>. Population based on 2013 estimate and median household income, from 2009-2013 data.

Public Works

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memorandum dated January 13, 2013, referencing “Assessing Financial Capability for Municipal Clean Water Act Requirements,” “the financial capability of a community will be considered when developing schedules for municipal projects necessary to meet Clean Water Act obligations.”

The City’s preliminary planning estimates to implement the Permit are well beyond present expenditures of the current MS4 permit and planned Chesapeake Bay total maximum daily load (TMDL) cleanup efforts.

In the southeast region of Virginia, the City’s program, although robust, is one of the smallest Phase I MS4 programs. In addition, the City also is impacted by one of the highest rates of sea level rise in the United States. It is economically challenged by the ability to prevent flooding and to provide both wastewater and stormwater improvements to water quality. Furthermore, Hampton is being held to the same numerical reporting requirements as the larger MS4 programs. As a Chesapeake Bay Preservation Act community since 1991, Hampton has exhibited its commitment to improve water quality; however, financial capability cannot be ignored in the development of this permit. Therefore, the City respectfully requests that Hampton’s program be assessed and revised accordingly.

Federal and state agencies additionally recognize that size matters. First, the precedent was set in distinguishing between Phase I and Phase II localities. Secondly, the 1990 Decennial Census reports Hampton’s population as 133,793. Pursuant to 40 CFR § 122.26(b)(7), Hampton is a medium MS4, that is, it has a population between 100,000 and 250,000 as determined by the 1990 Decennial Census by the Bureau of Census. Therefore, the City respectfully submits that further gradations of capabilities among Phase I localities likewise should be acknowledged.

Further, agricultural sources are known to be the largest cause of stormwater pollution. In fact, the EPA, referencing the latest *National Water Quality Inventory*, acknowledges that “agriculture is the leading contributor to water quality impairments.”² Hence, the City objects to shouldering the burden of cleanup that rightfully should be placed on the agricultural community.

The City, as a member of the Hampton Roads Planning District Commission (“HRPDC”) and one of six regional Phase I MS4 jurisdictions, concurs with and hereby incorporates comments in the March 24, 2015 letter from the HRPDC to your

² See article entitled “Nonpoint Source Pollution: The Nation’s Largest Water Quality Problem” at <http://water.epa.gov/polwaste/nps/outreach/point1.cfm>; see also Natural Resources Defense Council article entitled “Stormwater Strategies” at <http://www.nrdc.org/water/pollution/storm/chap2.asp>.

office, attached hereto, and attachments to the HRPDC letter. Thus, the City respectfully submits the following comments on the Draft MS4 Permit No. VA0088633 dated January 23, 2015 (the “Permit”), and its recommendations are highlighted in bold opposite each reference to the Permit.

<u>Permit Section (page number)</u>	<u>Comments</u>
Part I-Authorization, Effluent Limitations and Monitoring Requirements	
A. Discharges Authorized Under This State Permit	
Part I.A.3. (pg. 3)	<p>The requirements to use legal authority to “control the contribution of pollutants,” “prohibit illicit discharges,” and “control the discharge of spills” is unachievable. Legal authority does not give the City the ability to control or prohibit any activity on private property. Enforcement is the mechanism to achieve compliance.</p> <p>Consider modifying the language in this section to more accurately reflect the City’s enforcement authority.</p>
Part I.A.4. (pg. 3)	<p>The specific reporting requirements demand a copy of the current year’s fiscal budget be submitted with each Annual Report. This is not part of the Clean Water Act and is not a requirement in the Code of Federal Regulations (“CFR”). The actual test of compliance with the Permit is completion of the requirements in the Permit and the City’s Stormwater Management Program Plan, not its budget.</p> <p>Consider removing this requirement.</p>
Part I.A.6. (pg. 4)	<p>The specific reporting requirements indicate that the first Annual Report will describe implementation of the MS4 Program Plan, and the fourth Annual Report will become the updated MS4 Program Plan. The City will need at least one year to develop the MS4 Program Plan.</p> <p>Consider making the MS4 Annual Report and the MS4 Program Plan two separate documents wherein the MS4 Program Plan spells out roles, responsibilities, and procedures for implementing Permit requirements; and the Annual Report will be a compilation of specific tasks that were accomplished in that permit year. Alternatively, consider providing guidance on the format of the consolidated document.</p>

<u>Permit Section</u> (page number)	<u>Comments</u>
B. Stormwater Management	
Part I.B.2.a. (pg. 6-7)	Under the specific reporting requirements, the Virginia Department of Environmental Quality (DEQ) requires the City to include a list of grandfathered projects in the initial annual report. The City should not be required to track and “make-up” quality reductions for projects that were designed and constructed according to State Code. Consider removing this requirement.
Part I.B.2.b. (pg. 7)	There is no requirement in the CFR for this retrofitting on prior developed lands section. The number of projects (7) is arbitrary and is not based on either the City’s Chesapeake Bay TMDL Phase II Watershed Implementation Plan (WIP) or the results of the City’s watershed master planning program. While a similar requirement has been included in other Phase I draft permits, these other permits specify that these projects are conceptual and not “completed projects” as indicated in the Permit. There are no requirements to retrofit any projects in the CFR. The City has committed to developing two projects and implementing numerous identified activities under its Chesapeake Bay TMDL Phase II WIP, which should be the City’s only obligation. Consider removing this section in its entirety because the City may be able to meet its 5 percent reduction requirement in less than 7 projects.
Part I.B.2.d.(1)(b) (pg. 8)	There is an existing state program that certifies nutrient management application (Virginia Nutrient Management Program). Recordkeeping and reporting are included in 4VAC 50-85-100. Certified nutrient management planners file annual activity reports. Specify the federal or state regulatory reference that requires nutrient management plans for areas of more than one acre or consider removing the requirement for areas greater than one acre.
Part I.B.2.d.(4) (pg. 8)	All commercial applicators of pesticides are certified through the Virginia Cooperative Extension. There is an existing state program for the regulation of application of pesticides. Records are maintained for two years by commercial applicators and registered technicians. Specify the federal or state regulatory reference that requires Integrated Pest Management Plans or consider removing this requirement.

<u>Permit Section (page number)</u>	<u>Comments</u>
Part I.B.2.e.(2) (pg. 9)	<p>This section discusses illicit discharges and improper disposal. Section (2) specifically addresses the evaluation of sanitary sewer lines to minimize exfiltration from the sanitary sewer system to the MS4. While cross connections and sanitary sewer overflows are typical sources for illicit discharges to the MS4, cross connections are identified more efficiently through inspection of the storm sewer system, and the specific requirement to evaluate a specific amount (270,000 feet) of the sanitary sewer system will provide minimal information in the identification of illicit discharges.</p> <p>Consider removing this section since this requirement is not a normal activity for a stormwater program, and this requirement is part of the DEQ State Water Control Board Special Order of Consent.</p>
Part I.B.2.e.(3) (pg. 9)	<p>40 CFR § 122.26(d)(2)(iv)(A)(1) requires “a description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables).”</p> <p>Consider removing this requirement as the City has not identified floatables as a problem area, and this requirement is more applicable to northern Virginia localities.</p>
Part I.B.2.e.(6) (pg. 9)	<p>This section includes the requirement that “the permittee shall require the elimination of illicit discharges and improper disposal practices within 30-days of discovery.” In certain cases (<i>e.g.</i>, industrial VPDES permit holders, VDOT, other MS4 permittees), the City may not have the authority to require elimination. The City only has jurisdiction to act in certain circumstances, and this requirement will place an undue burden on the City that it may not have the authority to perform.</p> <p>Consider modifying the language in this section to more accurately reflect the City’s enforcement authority.</p>
Part I.B.2.f. (pg. 10)	<p>This section requires the prevention of spills. This requirement is not achievable since spills often result from accidents.</p> <p>Consider revising this section.</p>
Part I.B.2.g. (pg. 10)	<p>This section includes the term “significant pollutant loading;” however, “significant” is subjective and not defined.</p> <p>Consider defining “significant.”</p>
Part I.B.2.g.(2) through (5) (pgs. 10-11)	<p>Facilities with Virginia Pollutant Discharge Elimination System (VPDES) permits should be regulated by DEQ, not the City. If facilities cannot be regulated under a State program, then they cannot be regulated by the City since Virginia is a “Dillon rule” state.</p> <p>Consider removing these unfunded mandate requirements.</p>

<u>Permit Section (page number)</u>	<u>Comments</u>
Part I.B.2.h. (pgs. 11-13)	Throughout this section, stormwater management (SWM) facility seems to be used interchangeably with best management practice (BMP). BMP is defined in Part I.F., and SWM facility is defined in 9 VAC 25-870-10. "Storm Drainage System" is not defined in the Permit, the Virginia Stormwater Management Act (VSMA), the Virginia Stormwater Management Program (VSMP) Regulations or the Federal National Pollutant Discharge Elimination System (NPDES) rules (40 CFR Part 122.2). Please define these terms and use them consistently throughout the Permit.
Part I.B.2.h.(1)(a) (pg. 11-12)	This section addresses operation and maintenance of stormwater management facilities owned and operated by the City. The requirement for adequate long-term operation and maintenance is part of the VSMP regulations and does not need to also be included in the MS4 Program Plan. Consider modifying this section.
Part I.B.2.h.(1)(d) (pg. 12)	This section requires inspecting 100% of the storm sewer system. Some of the system may be unmapped or submerged due to tidal influence. Cave-ins or maintenance items are identified for action through the City's 311 Customer Call Center. Consider modifying this section to allow for inspection to be prioritized based on age of the system and need, with the oldest areas and those requiring repairs or maintenance being inspected first.
Part I.B.2.h.(1)(e) (pg. 12)	The City is required to comply with laws and regulations. Consider removing this section since it is duplicative of current obligations.
Part I.B.2.h.(2) (pg. 12-13)	Consider revising this section for SWM facilities not maintained by the City and that discharge into the MS4 in order to clarify the requirement for the City to ensure compliance.
Part I.B.2.h.(3) (pg. 13)	This section requests information for each MS4 outfall. Please specify if the definition for "major outfall" per 40 CFR § 122.26(b)(5) is intended to be used here or consider defining "outfall."
Part I.B.2.h.(4) and (5) (pg. 13)	The City previously has reported the impervious, pervious, and total acres of the MS4 in the City's Chesapeake Bay TMDL Local Phase II WIP. Consider moving these requirements to the Chesapeake Bay TMDL Action Plan section since the City already is reporting this information.

<u>Permit Section (page number)</u>	<u>Comments</u>
Part I.B.2.h.(5) (pg. 13)	The reporting requirement of 54 months falls between years 4 and 5 of the Permit. Consider modifying this requirement.
Part I.B.2.i.(1)(d) (pg. 14)	The municipal yards that house vehicles will have Stormwater Pollution Prevention Plan (SWPPP) coverage. Consider revising this section to indicate that the City will maintain municipal vehicles to minimize fluid leaks.
Part I.B.2.j.(1)(c) (pg. 15)	Define “integrated management practice (IMP) plans and techniques.”
Part I.B.2.k.(4) (pg. 17)	Consider removing this requirement to track the training and certification of those applying pesticides and herbicides since there is an existing state training and certification program as required by the Virginia Pesticide Control Board.
Part I.B.2.k.(9) (pg. 17)	Clarify whether training events shall be listed in the Annual Report for the fiscal year.
Part I.B.2.l.(1)(a) (pg. 17)	Once “outfall” has been clarified as to whether it includes the definition of “major outfall,” consider revising this section to a percentage of high priority outfalls or areas instead of 100 outfalls.
Part I.B.2.l.(1)(b)(3) and (4) (pg. 18)	The City performed land use monitoring as part of its MS4 Part 2 application and is continuing the effort in partnership with other affected parties in the region. Additionally, there is no regulatory basis to include the facilities listed in (4). The City will develop watershed maps that include relevant information to allow it to prioritize the dry weather screening program. Consider deleting these two criteria.
Part I.B.2.l.(2) (pg. 18)	This section requires the development of a Wet Weather Screening Program. Considering there are no water quality standards for stormwater, this type of program most likely will not provide any added benefit. Given the variability of rainfall, inter-dry periods, land use changes, and the like, data from this effort will be of limited value. This requirement also may duplicate efforts from other permits, and wet weather monitoring will provide minimal benefit. Consider removing this section.
Part I.B.2.m. (pgs. 18-19)	This section discusses coordination between the City and the Virginia Department of Transportation (VDOT). The City cannot force a meeting with VDOT. If VDOT refuses to meet with the City, the City will be in violation of the Permit. Consider revising this section to focus on coordination instead of required meetings.

Permit Section (page number)	Comments
Part I.B.2.m.(7) (pg. 19)	This section states that “the permittee shall make available to VDOT all monitoring data collected from areas where the physically-interconnected MS4 discharges to the VDOT MS4 or received flow from the VDOT MS4.” Confirm whether VDOT is willing to pay for this public data and whether this requirement is reciprocal.
C. Monitoring Requirements	
Part I.C.1.e. (pg. 20)	Clarify the basis for choosing 15 collected and analyzed samples before replacing a sampling location.
D. TMDL Action Plan and Implementation	
Part I.D.1.b. (pg. 21-24)	Consider referencing the latest version of the Chesapeake Bay TMDL Special Condition Guidance document (Guidance Memo No. 14-2012) instead of providing the outdated information in this section.
Part I.D.1.b.(2)(a) (pg. 23)	It is unclear what is intended in this sentence. Revise this sentence to be clearer.
Part I.D.1.b.(2)(f) (pg. 24)	The requirements of this section should apply to any BMP retrofit that meets the current design criteria. Consider removing “after June 30, 2009.”
Part I.D.1.d. (pg. 24-25)	Clarify whether these annual reporting requirements are meant to be included in the MS4 Annual Report or if a separate Chesapeake Bay TMDL Annual Report is necessary.
Part I.D.1.d.(2) and (3) (pg. 25)	These two reporting requirements are very similar. Consider combining them into one requirement.
Part I.D.1.d.(5)(b) (pg. 25)	Consider removing this requirement for a draft second phase Chesapeake Bay TMDL Action Plan and making it part of the next permit.
Part I.D.2.b.(5) (pg. 26)	The monitoring requirements will be difficult to achieve for the Polychlorinated Biphenyl (PCB) TMDL, since the manufacture of PCBs was banned in 1979. Consider revising this section.
Part I.D.2.f. (pg. 27)	Clarify whether these annual reporting requirements are meant to be included in the MS4 Annual Report or whether a separate TMDL Annual Report is necessary.
Part I.D.2.g. (pg. 27)	Consider removing this requirement and making it part of the next permit.

<u>Permit Section</u> <u>(page number)</u>	<u>Comments</u>
Part II-Conditions Applicable to All VSMP MS4 Permits	
A. Monitoring	
Part II.A.2. (pg. 28)	Consider revising to “monitoring data not collected in-situ shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this state permit.”
C. Reporting Monitoring Results	
Part II.C.3. (pg. 29)	Consider revising the last two lines of this sentence to “data submitted to the Department” instead of “data submitted in the DMR or reporting form specified by the Department.”

Task Scheduling and Due Dates

In addition to the above comments, the deadlines to complete various tasks after the Permit issue date are burdensome. For example, the draft permit requires at least 3 tasks to be completed within 30 days, 11 within 12 months, 1 within 15 months, 2 within 18 months, 9 within 24 months, 5 within 36 months, 6 within 48 months, and 1 within 54 months, for a total of 38 tasks. Added to the 38 tasks are at least 54 that are due annually for a total of 270 tasks to be completed by the end of the Permit term.

Although some of these tasks are not overly time consuming, approximately one-half are extremely time consuming and will require additional planning, consultants, personnel, equipment, funding, budgeting, outreach, and City Council approvals. These task deadlines are not specifically addressed here since tasks and timeframes may be modified in your response to the Permit comments. Therefore, the City respectfully reserves the right to address any tasks and requirements as well as the due dates in its comments on the next version of the Draft Permit.

Program Costs

Considerable costs will be associated with implementation of the requirements of the Permit above and beyond the current cost of the program. For example, preliminary estimated costs to add the requirements of Part I.B.2.h. to our current program are \$2,500,000 initially and \$840,000 annually thereafter. In fiscal year 2014, the City increased the monthly stormwater service charge from \$6.41 to \$6.99 per equivalent residential unit to cover the City’s assumption of the State

construction general permit, to fulfill its obligations under the new stormwater regulations, and to construct projects related to implementation of the City's Chesapeake Bay TMDL Phase II WIP. In fiscal year 2016, the City has proposed an increase from \$6.99 to \$7.83. The City is extremely concerned about the potential additional costs of the program which will have to be borne by Hampton citizens and business owners.

VSMP Permit Fact Sheet

In addition to the comments outlined in the attached HRPDC letter and the City's specific concerns outlined herein, following are additional concerns relating to the Fact Sheet. It is anticipated the Fact Sheet will be modified to reflect all comments and changes made to the Draft Permit.

Item 1. Change "Virginia Beach" to "Hampton."

Item 2. Consider indicating that, although the permit expired on March 8, 2006, it will continue in force until a new permit is issued.

Item 3. Revise the phone number to 757-727-6754.

Item 13. Under Virginia Code § 62.1-44.15:25, authority was transferred from the Soil and Water Conservation Board and the DCR to the State Water Control Board and the DEQ. Therefore, references to "Department" instead should be "the Board" per the regulation.

Item 15. The City objects to the inclusion of Attachment 2, which does not address the EPA's ultimate resolution of the 2010 audit after the City submitted its response to the EPA findings. Furthermore, the document is nearly 5 years old and does not reflect the extensive upgrades made to the City's MS4 Program.

Item 19. Part I.A.1 (Authorized Discharges) should be revised to accurately reflect the definition in the regulation (9VAC25-31-10) for "storm water discharge associated with industrial activity."


Item 19. Under Part I.A.5 (Permit Maintenance Fees), clarify whether the Permit is considered a new permit or maintenance of an existing permit.

Item 19. Part I.B.2.e) (Illicit Discharges and Improper Disposal) should reference the City's Department of Public Works instead of the Department of Public Utilities.

Item 19. Under Part I.B.2.1) (Water Quality Screening Programs), the total number of outfalls and the number required to be inspected annually may need to be adjusted based on the definition of "outfall."

In conclusion, the City of Hampton appreciates the opportunity to comment on the January 23, 2015 DRAFT MS4 Permit No. VA0088633. Please do not hesitate to contact us if you wish to discuss any of these comments.

Sincerely,

A handwritten signature in cursive script that reads "Mary B. Bunting".

Mary B. Bunting
City Manager

Attachment

CC: David K. Paylor, DEQ Director (w/attach.)
Melanie Davenport, Director of DEQ Water Division (w/attach.)
HRPDC
VDOT

**MEMBER
JURISDICTIONS**

March 24, 2015

CHESAPEAKE

Jaime L. Bauer
Environmental Specialist II
Department of Environmental Quality
Commonwealth of Virginia
P.O. Box 1105
Richmond, VA 23218

FRANKLIN

GLOUCESTER

HAMPTON

RE: Amend and Reissue the Draft Authorization to Discharge under the Virginia Stormwater Management Program and the Virginia Stormwater Management Act

ISLE OF WIGHT

Dear Ms. Bauer:

JAMES CITY

NEWPORT NEWS

NORFOLK

POQUOSON

Thank you for extending the deadline to submit comments from February 27, 2015 to March 31, 2015. The following comments are made to the draft Authorization to Discharge under the Virginia Stormwater Management Program and the Virginia Stormwater Management Act ("Permits") and are submitted by the Hampton Roads Planning District Commission ("HRPDC") on behalf of the HRPDC's Phase I MS4 member jurisdictions ("MS4 Localities" or "Localities").¹

PORTSMOUTH

The Localities may submit their own comments as well and may choose to append these comments to their own and incorporate them by reference. We appreciate the opportunity to discuss comments with DEQ representatives on Monday, April 13, 2015, from 9:00 a.m. to 12:00 p.m. in the HRPDC Boardroom at 723 Woodlake Drive, Chesapeake, Virginia 23320.

SMITHFIELD

SOUTHAMPTON

I. Introduction

SUFFOLK

SURRY

The MS4 Localities and HRPDC appreciate the Department of Environmental Quality's ("DEQ's") willingness to address many of our concerns with the draft Permits; however, some concerns remain in both the draft Permits and the draft Fact Sheets accompanying the Permits ("Fact Sheets").

VIRGINIA BEACH

WILLIAMSBURG

YORK

The MS4 Localities acknowledge that responsibility for this program has recently been transferred from the Department of Conservation and Recreation ("DCR") to DEQ. For this reason, it is important to note that HRPDC has already expressed concerns about the Bay TMDL provisions in the General Permit for Discharges of Stormwater from Small MS4s ("General Permit") and in the draft stages of the Phase I Permits. Such comments were

¹ The large (Phase I) MS4 jurisdictions are the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, and Virginia Beach.

made on those Permits in August 2011, December 2012, March 2013, and most recently in a meeting with DEQ on November 7, 2014. The prior comments are attached here and incorporated by reference (*see Attachment 1*). Many of the comments and concerns have remained consistent since the earliest communication on the topic.

II. Chesapeake Bay TMDL Action Planning

A. The baseline loading rates are inaccurate and their use in calculating baseline pollutant loads will require the MS4 Localities to achieve greater load reductions than necessary to reach their Bay TMDL target loads.

Although not fully explained in the Fact Sheet, we understand that the baseline loading rates in Section I.D. of the Permit were calculated using state-derived estimates of the types, numbers, and efficiencies of stormwater Best Management Practices ("BMPs") installed on the acreage of developed impervious and pervious land in each river basin as of June 30, 2008. These estimates were then used as inputs to the Chesapeake Bay Watershed Model to produce basin-wide 2009 edge of stream ("EOS") loading rates for each pollutant of concern (nitrogen, phosphorus, and total suspended solids). Neither DCR nor DEQ has provided a meaningful explanation of how it arrived at its BMP estimates. It is apparent that DCR's BMP estimates are inconsistent with Locality-documented BMP implementation data as of June 30, 2008. During the Phase II Watershed Implementation Plan ("WIP") process, the Localities found significant discrepancies between local and State BMP data and reported this information to DCR in February 2012, but DCR neither corrected its data nor responded to the Localities' findings.² DCR's failure to use updated BMP data prevented it from calculating accurate baseline loading rates and that problem remains to the present day.

B. The process of averaging flawed loading rates over the entire basin further discounts past BMP implementation by the MS4 Localities.

Baseline loading rates derived using BMP implementation data averaged over the entire James River basin fail to account for greater BMP implementation by localities that are subject to the Chesapeake Bay Preservation Act ("CBPA"), and therefore, over-estimate loading rates for these localities. As directed pursuant to the CBPA, the 38 Virginia localities in the tidal portion of the Chesapeake Bay Watershed (including 16 localities within the HRPDC) have been requiring developers to offset nutrient and sediment loads since 1990 by installing stormwater BMPs. The tidal localities receive only partial credit for the resulting lower loading rates because the basin-wide average BMP

² As an example, one locality in Hampton Roads contains 3,000 acres of developed land. According to DCR's 2009 Progress Run, BMPs in this locality treat only 300 acres. Locality ground-truthed data indicates, however, that BMPs treat three times as many acres for a total of 900 acres. In this example, the state estimates that approximately 1/10 of the area of the locality is treated by BMPs, when in actuality, closer to 1/3 of the acres in the locality have the benefit of BMP treatment.

implementation estimates used by DCR simply offset the higher loading rates of those localities in the non-tidal portion of the basin rather than giving full credit to the localities that actually achieved the reductions.

C. The MS4 Localities should not be required to offset loads from private development that was constructed in accordance with stormwater regulations.

The Localities object to the requirement to offset projects that were approved for impervious cover at greater than 16 percent without stormwater treatment requirements. CBPA localities had programs approved by DEQ/DCR that allowed more than 16 percent of impervious cover and should not be required to offset loads from private development that was in compliance with stormwater regulations in effect at the time of development. The State should not require Localities to retroactively subsidize private development.

The Permit also requires Localities to offset loads from all known land disturbing projects that qualify under the "grandfathering" provision in the Virginia Stormwater Management Program ("VSMP") regulations in Part I.B.2.a. This requirement is not appropriate for the following reasons:

1. If a project is "grandfathered," only portions of the project for which construction commenced within the first Permit cycle and one renewal cycle are grandfathered pursuant to 9 VAC 25-870-48. Therefore such status is only applicable for a given period of time. Localities cannot predict which projects will be constructed in the requisite timeframe.
2. Localities should not have to accept the additional financial burden of offsets when the decision to approve the projects did not factor in this requirement.
3. Some grandfathered projects will never be constructed and Localities should not have to provide offsets for these projects. A determination of grandfathered status would not be made until such time that a project owner indicates intent to begin construction by making application for required City permits. For various reasons many projects which are approved never continue through to construction. The Localities have no way to predict this in advance and thus cannot plan for this requirement.

D. DCR has failed to address earlier requests from HRPDC and the Localities to correct the same deficiencies in the baseline loading rates identified in these comments.

The HRPDC and the Localities alerted DCR (and now DEQ) to the above-described deficiencies on more than one occasion. Such comments were made

in August 2011, December 2012, March 2013, and most recently in a meeting with DEQ on November 7, 2014. See Attachment 1. DCR responded to a number of our questions related to the baseline loading rates, but neither the Localities nor the HRPDC ever received a reasoned explanation and justification for the decision to develop the baseline loading rates in Section I.D. of the Permit using the State basin-wide BMP data and the 2009 Progress Run.

Two of the more obvious examples of this are (i) DCR's failure to revise BMP implementation data when Localities provided updated data for DCR's Phase II WIP data call, and (ii) DCR's reliance on a directive from the Environmental Protection Agency ("EPA") to use the 2009 Progress Run to derive the baseline loading rates rather than exercising its own judgment and discretion to determine whether some other model run would produce more accurate loading rates.³

The Fact Sheets provided by DEQ do not provide a reasoned rationale and justification for using the baseline loading rates in Section I.D. of the Permit. Instead, the Fact Sheets do little more than repeat much of what is in the Permit. The Phase I and Phase II WIPs fail to provide a rationale and justification for the baseline loading rates, and instead, like the Permit, offer only an abbreviated and inadequate explanation of the basis for the rates.

Although courts accord considerable deference to an agency's exercise of its discretion, the agency must exercise that discretion in a way that is not arbitrary and capricious. In short, the agency must provide a reasoned rationale and justification for its action.⁴ It is not enough for an agency to simply identify the basis for its action as DEQ has done.

E. Use of the 2010 No Action Model Run would address the deficiencies in the baseline loading rates.

DEQ can correct the above-described deficiencies by modifying Section I.D. of the Permit to instruct Localities to calculate their baseline loads using loading rates from the 2010 No Action Model Run instead of the 2009 Progress Run (the 2010 No Action Model Run reflects pollutant loads without BMPs). Under this approach, Localities would also submit data on actual BMP implementation and the resulting pollutant load reductions from these BMPs and receive credit for these reductions beyond their calculated baseline loads. This approach would (i) use the most accurate BMP data in the development of loading rates, (ii) avoid the use of inaccurate basin-wide loading rates because locality-specific

³ See August 15, 2011, letter from John Carlock (HRPDC) to Joan Salvati (DCR) and August 31, 2011, email response from Noah Hill (DCR) to Jennifer Tribo (HRPDC), copies of which are in Attachment 1 to these comments.

⁴ See *Chem. Mfrs. Ass'n v. EPA*, 28 F.3d 1259, 1265-66 (D.C. Cir. 1994); *Va. Real Estate Comm'n v. Bias*, 226 Va. 264, 269, 308 S.E.2d 123, 125 (1983); *Env'tl. Defense Fund v. Va. State Water Control Bd.*, 15 Va. App. 271, 277-78, 422 S.E.2d 608, 611-12 (1992); *Johnston-Willis, Ltd. v. Kenley*, 6 Va. App. 231, 241-44, 369 S.E.2d 1, 19-24 (1988); *Atkinson v. Va. Alcoholic Beverage Control Comm'n*, 1 Va. App. 172, 176, 336 S.E.2d 527, 529-30 (1985).

information could be used to calculate more accurate locality-specific loading rates, and (iii) permit localities to obtain credit for all BMPs implemented within the locality up to the effective date of the Permit, which would result in more accurate pollutant load and load reduction calculations.

While we understand that EPA may have directed DCR to frame statewide strategies in terms of pounds of pollutants removed from the 2009 Progress Run to meet the statewide TMDL targets, we believe that DEQ should view this as a reporting requirement. DEQ could comply with EPA's request by requiring Localities to (i) calculate the number of total pounds of pollutants reduced by achieving a five percent reduction from the 2009 Progress Run, and (ii) then express that load reduction as a percent reduction from the 2010 No Action Model Run.

F. TMDL Action Plan and Implementation

In Part I.D.1.b.1., Localities suggest removing the word "approvable" and replacing it with "in accordance with the Chesapeake Bay TMDL Action Plan Guidance." Permittees cannot be subjected to non-compliance by requiring the submittal of "approvable" Action Plans. Permittees who make a good faith effort to submit complete and accurate Action Plans should not be deemed to be non-compliant because DEQ does not approve the Plan for reasons that were not reasonably foreseeable by the permittee when preparing its plan. Alternately, language could be added that permittees who fail to submit revised plans correcting deficiencies identified by DEQ may be deemed non-compliant with the Permit.

Based on the draft Bay TMDL Action Plan guidance, as BMPs are approved by the Bay Program they can also be used to comply with the Permit. It is important to Localities that this provision be included in the final Action Plan guidance.

We request that DEQ revise the Action Plan guidance so that the baseline loading rates reflect the 2010 No Action model run, as explained in Section II.E. of this comment letter. We ask that DEQ work diligently to provide the final Action Plan guidance as soon as possible but no later than the effective date of the Permit.

The Localities request a clear definition of "James River Basin." There are areas in Hampton Roads that do not drain to the James River Basin such as East Ocean View in Norfolk, the Lynnhaven River in Virginia Beach, Little Creek in both Norfolk and Virginia Beach, or the Poquoson in Newport News and Back River in Hampton and Newport News.

The Localities ask for clarification on the following sentence in Part I.D.2.a.: "Implementation of BMPs on unregulated lands provided the baseline reduction

is subtracted from the total reduction prior to application of the reduction towards meeting the required reductions.”

G. TMDL Annual Reporting Requirements

Part I.D.d.5.b. of the Permit should be deleted. Planning for the second Bay TMDL Action Plan should be included in the second Permit. It is not reasonable to plan the second Action Plan before the conditions of the second Permit are known. Additionally, the Localities will have to start planning approximately one year after completing their first Action Plan, prior to the actual implementation and lessons learned timeframe.

III. Monitoring Requirements

A. Regional Monitoring Program

The Localities appreciate DEQ’s consideration of the Regional Monitoring Program under development, but the monitoring requirements in Part I.C.1. are not feasible. Monitoring sites were selected to quantify the loading rates for specific land uses in the Coastal Plain. The Monitoring Program was not designed to determine the effectiveness of upstream BMPs. The Study design attempted to avoid drainage areas with BMPs, but this was not feasible in all localities. Any effect of existing BMPs will become part of the baseline loading rate for that drainage area. Once baseline loads are calculated, then the effect of future BMPs may be characterized by the Monitoring Program. The portion of the sentence in Part I.C.1. that states, “. . . as well as determine the effectiveness of any upstream BMPs as follows” should be removed.

B. pH, Dissolved Oxygen, and E. coli

The requirement to collect pH, dissolved oxygen and E. coli data should be removed from the Permit. Part I.C.1.b. requires that samples be collected four times per year and analyzed for 11 pollutants. The Regional Monitoring Program was designed to collect automated samples during rain events. Flow, conductivity, temperature, and turbidity will be collected using a flow meter and water quality sonde. The samples collected by the automated sampler will be analyzed for total nitrogen, nitrate nitrogen, total phosphorus, orthophosphate, and total suspended solids. Dissolved oxygen and pH cannot be collected by the automated sampler due to holding times, and the water quality sondes that collect dissolved oxygen and pH cannot be used by the Monitoring Program because they must be constantly submerged. The regional monitoring stations were purposely selected to be out of the tidal range and therefore will likely go dry between rain events. Current EPA sampling protocols do not allow for E. coli data to be collected by automated sampler. Neither the draft Permit nor the Fact Sheet provides any justification for adding these parameters to the Regional Monitoring Program.

C. Reporting Requirements

The monitoring stations are currently being installed, and it may take the first year of the Permit to ensure that all stations are consistently operating properly and collecting usable data. The draft Permit requires that "each annual report shall include a summary of the monitoring results and analyses and an interpretation of that data with respect to long-term patterns/trends." This is beyond the purpose of the Monitoring Program. The Monitoring Program is intended to calculate the baseline loading rates for urban land uses in Hampton Roads. Monitoring data will be submitted in annual reports after Permit year two, but loading rates may not be calculated until the end of the Permit term due to the uncertainty in the magnitude and frequency of rainfall events.

IV. Industrial Inspection Program

A. Industrial and High Risk Runoff Facilities

Part I.B.2.g. requires the permittee to implement a program to identify and control pollutants in stormwater discharges to the MS4 from industrial and high risk runoff facilities (e.g., municipal landfills; other treatment, storage or disposal facilities for municipal waste; hazardous waste treatment, storage, disposal, and recovery facilities; facilities that may be subject to EPCRA Title III, Section 313); and any other industrial or commercial discharges the permittee determines are contributing a substantial pollutant loading to the MS4. This list of the types of facilities that are considered high risk for runoff, including landfills and waste management sites, does not coincide with the list presented in Part I.B.2.g. 1-6. For example, in Part I.B.2.g.6.b. of the Permit, automotive service shops are considered high risk runoff facilities, and they are not included in the introduction. The Permit should not specify the types of industrial facilities to inspect; the Localities should use best professional judgment to determine which facilities pose the greatest risk of polluting their MS4 systems.

B. State Responsibilities

The high risk facilities listed in Part I.B.2.g. are required to be permitted by DEQ. Discharge and effluent limits, housekeeping requirements, and other Permit conditions are set by DEQ in the applicable discharge permits. Requiring MS4 Localities to assume responsibility for facilities that are permitted by DEQ is not required by the stormwater management regulations, is arbitrary, and would divert finite local resources from those functions that are most efficiently and effectively performed by the Localities.

Part I.B.2.g.3. requires Permittees to review Discharge Monitoring Reports ("DMR") that are required to be submitted to DEQ by VPDES permits. Reviewing programs for permit compliance is the responsibility of DEQ. The Localities object to this requirement.

Further, the Localities have expressed concern that some might construe an exercise of authority under these clauses as unenforceable under the doctrine of the "Dillon Rule." The unprecedented shift of these responsibilities from the state to the localities could potentially expose the locality to public criticism, enforcement action, or litigation.

C. Prioritization of Industrial Inspections

Rather than inspect the outfalls of VPDES-permitted facilities, Localities should prioritize industrial inspections, perhaps focusing on those without VPDES permits. Localities should base their prioritized schedule on impairment or areas where there are concerns of pollutants, not those listed in this section. If the state finds these are high polluters, then they should be included in the Industrial Permit program.

V. Stormwater Management Projects through the TMDL Action Planning Process.

Part I.B.1. should be removed from the Permit. Localities will provide a list of stormwater projects 24 months after the Permit effective date as part of the Bay TMDL Action Plan.

The basis for requiring seven retrofit projects in Part I.B.2.b. is unclear and the number of projects is arbitrary. This requirement should be removed from the Permit. Localities are required to develop a Bay TMDL Action Plan and implement projects to reduce pollutant loads by five percent by the end of the Permit cycle. This metric is reasonable and makes a requirement for a specific number of projects irrelevant.

VI. Other Significant Issues

A. Effective Date of Permit and the Annual Reporting Period

Regardless of the Permit effective date, DEQ should ensure the annual reporting period coincides with the fiscal year (FY). If the effective date of the Permit does not coincide with the FY, then adjust the other Permit deadlines accordingly to allow for Locality budget cycles.

B. MS4 Program Plan Development

There is no timeframe provided for the development of the MS4 Program Plan in Part I.A.6. The Localities do not have active MS4 Program Plans; they are drafts developed as part of the Permit application process per DCR's request. The Localities require time to develop/update the MS4 Program Plan. We suggest allowing the Localities one year to develop/update the MS4 Program Plan. Additionally, the MS4 Program Plan and the Annual Reports should be recognized as different documents, all under this Permit. The MS4 Program

Plan spells out the roles, responsibilities, and procedures for implementing Permit requirements, while the Annual Report is a compilation of specific tasks that were accomplished in that specific Permit year.

C. Permit Organization

The third bullet listed in Part I.B.2. requires the permittee to report their strategy to address maintenance of stormwater management controls that are designed to treat runoff solely from the individual residential lot on which they are located. This reporting requirement would be more appropriate in Part I.B.h.2.a.i., which is the section regarding individual residential lot BMPs. The Localities suggest language closer to 9 VAC 25-870-112.B. As an example: "stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located shall demonstrate to the satisfaction of the VSMP authority that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the VSMP authority."

D. Stormwater Management of Roadways

1. Part I.B.2.c.1. requires the Localities to develop an accurate list of permittee maintained roads, streets, and parking lots. The list is supposed to include the street name, the miles of roadway not treated by BMPs, and miles of roadway treated by BMPs, no later than 12 months after the effective date of the Permit. The Localities request that this deadline be extended to 24 months after the effective date of the Permit to allow localities to develop the list in coordination with the Action Plan.
2. Localities request removing the requirement to report the parking lot in Part I.B.2.c.1., as Locality databases are organized by road names.
3. Part I.B.2.c.2. requires the permittee to develop and implement written protocols for permittee maintained roads, equipment maintenance areas, and material storage areas to minimize pollutant discharges. Localities request removing both "equipment maintenance" and "material storage" areas from the list. The high priority City facilities, where equipment maintenance and material storage occurs, will be addressed as part of the SWPPPs that are required in Part I.B.2.i.2.

E. Pest Management

Part I.B.2.d.4. of the Permit requires the Permittee to report the number of acres that are managed under Integrated Pest Management Plans ("IPM"). Localities request that the requirement be removed. This requirement is not justified or explained in the Fact Sheet.

F. Sanitary Sewer Inspection

Part 1.B.2.e. requires inspection of the sanitary sewer system. These provisions are not appropriate for the Localities as the Localities have different legal obligations that still meet the requirements under applicable provisions of state and federal law. Specifically, since 2007, the Localities have been coordinating a regional approach to establish a consistent and uniform framework for identifying and implementing regional and individual system improvements to be undertaken pursuant to the Special Order by Consent ("Consent Order") and, under that Consent Order, developed Regional Technical Standards addressing the following: (1) data collection and flow monitoring, (2) Sewer System Evaluation Survey (SSES) planning, (3) sewer system condition assessment, (4) rehabilitation planning, (5) hydraulic modeling and performance assessment, (6) regional design guidelines, (7) regional operating guidelines, and (8) other technical requirements. *See Attachment 2.*

On December 9, 2014, a new Consent Order ("Amended Consent Order") terminated prior Consent Orders⁵ and implemented a sanitary sewer maintenance, operation, and management (MOM) program. The Hampton Roads Sanitation District ("HRSD") has assumed sole responsibility for all aspects of the Regional Wet Weather Management Plan ("RWWMP") and the HRSD MOM implementation in the Federal Consent Decree.⁶

The Localities are completing their required inspections and this requirement should be removed from the Permit.

G. Floatables

Part 1.B.2.e.3. requires the development of a program to reduce the discharge of floatables. This requirement should be moved to Part 1.B.2.j. Localities continue to address litter through public education and outreach campaigns. Localities should report on the effectiveness of the litter prevention programs instead of site surveys. Remove the fourth bullet in the Specific Reporting Requirements in Part 1.B.2.e.3.

H. Illicit Discharges and Spills

1. The Permit requires in Part 1.B.2.e. that each Annual Report includes a list of illicit discharges identified, the source, a description of follow-up activities and whether the illicit discharge has been eliminated. Localities instead request that a summary of illicit discharges be included in the Annual Report and the details of each be made available by request. If an illicit discharge exceeds the

⁵ *See Attachment 3*, p. 5, superseding and terminating Consent Orders issued by the State Water Control Board on September 26, 2007, December 17, 2001, and March 17, 2005.

⁶ *U.S. v. HRSD*, Civ. No. 2:09-cv-481, 2012 U.S. Dist. LEXIS 46984 (E.D.Va. Apr. 2, 2012).

reportable quantity threshold, DEQ is provided detailed information in the 5-day letters as required in Part II of the Permit.

2. Part I.B.e.1. requires the permittee to prohibit, on a case-by-case basis, any individual non-stormwater discharge otherwise allowed under the paragraph that is determined to be contributing significant amounts of pollutants to the MS4. The Localities request further explanation on what is considered a "significant amount" of pollutants. The word "significant" is imprecise, subjective, and unenforceable.
3. Part I.B.f. requires that a list of spills be included in each Annual Report. This section should only refer to reportable spills. It is unnecessary to report spills below the reporting threshold. Additionally, spills that occur at industrial sites and high priority municipal facilities will be tracked under SWPPP requirements.

I. Stormwater Infrastructure Management

1. Part I.B.h.d. requires the permittee to continue its storm sewer inspection program and inspect 100 percent of the MS4 system during the Permit term. Localities typically define the MS4 system as including all roadways, ditches, structures, curb lines, etc. It is not justified to inspect 100 percent of the system in a Permit term. Localities suggest they continue to evaluate the condition of their MS4 system using local knowledge and maintenance activities instead of inspecting 100 percent of the MS4 system during the Permit term. Localities prioritize their resources to the portions of the MS4 system that are in need of improvement. Localities will continue to document their maintenance plan as part of the MS4 Program Plan, with maintenance data such as the number of catch basins serviced, number of street-sweeping miles, and the number of city-owned BMPs maintained, etc.
2. Part I.B.2.h.1.e. requires permittees to dispose of wastes and wastewaters associated with stormwater system cleaning in accordance with local, state, and federal laws and regulations. Localities are required to comply with the law; it is unclear why this would be a Permit requirement.
3. In the specific reporting requirements of Part I.B.h.d., permittees are required to submit written inspection and maintenance procedures with the initial Annual Report. It is unclear why Localities would need to do this when these procedures will be submitted as part of the MS4 Program Plan.
4. In the specific reporting requirements of Part I.B.h.d, the permittee is required to report a list of activities including inspections, maintenance, and repair of stormwater infrastructure. Localities capture this data in multiple database systems; however, providing a comprehensive list of these tasks each year is an extensive administrative task. Localities suggest providing a summary of the

work completed and have the database systems on hand for inspection upon request.

J. City Facilities

Part I.B.2.i.1.d. should be revised to indicate that Localities will maintain municipal vehicles to minimize fluid leaks that discharge to the MS4 system. The municipal yards that house the vehicles will have SWPPP coverage.

K. Public Education/Participation

Part I.B.j.4. requires the permittee to post the MS4 Program Plan on their website no later than 30 days after the effective date of the Permit. As discussed in Section B above, there is no specified timeframe for the development of the MS4 Program Plan. Localities suggest stating that the Permittee post the MS4 Program Plan within 30 days of Plan approval.

L. Dry Weather Screening

Part I.B.2.l.1.a. of the Permit requires the permittee to screen a minimum of 100 of the City's MS4 outfalls each year. Localities suggest changing it to 25 of the City's MS4 structures, which would include catch basins and outfalls. Localities would use professional judgment to determine the areas of concern for screening. The last sentence of Part I.B.2.l.1.a. should be removed to allow for screening locations further upstream.

M. Wet Weather Screening

The wet weather screening program required in Part I.B.2.l.(2) should be removed from the Permit. This requirement is not defined or justified in the Permit or the Fact Sheet. The Regional Monitoring Program is a wet weather monitoring system designed to evaluate 10 to 15 storm events annually, with 40 to 60 samples collected from each station each year, depending on hydrologic conditions. Each locality is dedicating \$84,000/year to the Regional Monitoring Program. Additional wet weather screening is burdensome and not beneficial.

N. Structural and Source Controls Compliance Monitoring and Tracking

In the specific reporting requirements of Part I.B.2.h., the permittee is required to report historical BMPs in the fourth Annual Report. This requirement should be deleted. Localities will report the historic BMPs in each Annual Report and through DEQ's 2015 Historical Data Cleanup Request for Applications.

O. Other TMDL Action Plans

1. The Localities request that DEQ provide guidance on the Non-Bay TMDL Action Plans with a specific focus on bacteria and PCB TMDLs.
2. In Part I.D.2.b.4., the Localities suggest changing “facility of concern” to “high priority municipal facility” to be consistent with the rest of the Permit.
3. In Part I.D.2.g., BMPs that will be implemented in the “next permit term” should be included in the next Permit.
4. In Part I.D.2.g., the last sentence reads: “The permittee shall also evaluate and modify the estimated end date for achieving the applicable wasteload based on information acquired during the Permit cycle.” It is not feasible for Localities to estimate the date for achieving the wasteload for PCBs without additional guidance and identification of BMPs or actions that effectively eliminate PCBs. Additionally, Localities have no control over legacy PCB sources.

P. MS4 Program Implementation

The requirements of section I.B.2. are not proper permit terms as they only restate exiting law and regulation. By doing this in a VPDES permit, DEQ may subject Localities to EPA enforcement of state law and dual exposure to sanctions and penalties.

As an example, the EPA fined Norfolk for an alleged failure to obtain VSMP permits on City of Norfolk construction sites.⁷ Norfolk argued that this was not a violation of the current MS4 permit because the section under which the violation was noted required Norfolk to obtain VPDES Industrial Permits, not General Construction Permits. Norfolk argued that this would be a violation a state law and was, therefore, under the jurisdiction of DCR and not the EPA.

It is not necessary or justified to restate each provision of state law and regulation as a separately enforceable aspect of permit compliance. The Localities request revision to remove any sections that appear to separately require Localities to comply with state law or regulations associated with Virginia Erosion and Sediment Control Law § 62.1-44.15:51, *et seq.* of the Code of Virginia, Virginia Erosion and Sediment Control Regulations 9 VAC 25-840 *et seq.*, the Virginia Stormwater Management Act § 62.1-44.15:24 of the Code of Virginia, or Virginia Stormwater Management Program Regulations 9 VAC 25-870.

⁷ Circa 2010.

Q. Definitions

This section includes a reference to the Virginia Stormwater Management Act; however, the citation is for the regulations.

In conclusion, the purpose of planning district commissions, as set out in the Code of Virginia, § 15.2-4207 is “. . . to encourage and facilitate local government cooperation and state-local cooperation in addressing on a regional basis problems of greater than local significance.” The Localities and the HRPDC appreciate your careful consideration of amendments to the Permits. It is our goal to work with DEQ to find reasonable solutions that will benefit all. Given the extent of the comments, the Localities do not support releasing the draft Permits for Public Notice at this time. We look forward to continued discussions on the presented concerns.

Sincerely,

Kenneth I. Wright
Chairman

JS/jc

Attachments

Copy: David Paylor, DEQ
Melanie Davenport, DEQ